

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

LOUIS DAVIS,)	
)	
Plaintiff,)	
)	
v.)	CV 624-024
)	
MR. WEST, Warden, and BRINDEN)	
MURRY, Correctional Officer,)	
)	
Defendants.)	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff, incarcerated at Muscogee County Prison in Columbus, Georgia, has submitted to the Court for filing a complaint brought pursuant to 42 U.S.C. § 1983, concerning events alleged to have occurred at Emanuel County Jail (“ECJ”) in Swainsboro, Georgia. He is proceeding *pro se* and *in forma pauperis* (“IFP”). Because he is proceeding IFP, Plaintiff’s complaint must be screened to protect potential defendants. Phillips v. Mashburn, 746 F.2d 782, 785 (11th Cir. 1984) (*per curiam*); Al-Amin v. Donald, 165 F. App’x 733, 736 (11th Cir. 2006) (*per curiam*).

I. SCREENING THE COMPLAINT

A. BACKGROUND

Plaintiff names Mr. West, Warden of ECJ, and Brinden Murry, Correctional Officer at ECJ, as Defendants. (Doc. no. 1, p. 2.) Taking all of Plaintiff’s allegations as true, as the Court must for purposes of the present screening, the facts are as follows.

During a mealtime on January 3, 2024, Officer Murry assaulted Plaintiff inside of his holding cell at ECJ. (Id. at 4-5.) During the assault, Officer Murry choked and punched Plaintiff, tossed Plaintiff around his cell, threw Plaintiff to the ground, and dragged Plaintiff across the floor. (Id. at 3, 5.) While Officer Murry assaulted Plaintiff, a female correctional officer who was present yelled at Officer Murry to stop. (Id. at 5.) Following the assault, Plaintiff filed a grievance at ECJ concerning the incident. (Id. at 7.) Although Warden West acknowledged the grievance, the receipt Plaintiff received showed Warden West failed to investigate the incident. (Id. at 7-8.) Warden West also allowed Officer Murry to continue working at ECJ following the incident, where Officer Murry continued to assault inmates. (Id. at 4.) The incident caused Plaintiff to suffer injury to his right collar bone, lower back pain in the spinal area, and mental distress. (Id. at 5.) Plaintiff requests monetary damages and equitable relief. (Id.)

B. DISCUSSION

1. Legal Standard for Screening

The complaint or any portion thereof may be dismissed if it is frivolous, malicious, or fails to state a claim upon which relief may be granted, or if it seeks monetary relief from a defendant who is immune to such relief. See 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b). A claim is frivolous if it “lacks an arguable basis either in law or in fact.” Neitzke v. Williams, 490 U.S. 319, 325 (1989). “Failure to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard as dismissal for failure to state a claim under Fed. R. Civ. P. 12(b)(6).” Wilkerson v. H & S, Inc., 366 F. App’x 49, 51 (11th Cir. 2010) (*per curiam*) (citing Mitchell v. Farcass, 112 F.3d 1483, 1490 (11th Cir. 1997)).

To avoid dismissal for failure to state a claim upon which relief can be granted, the allegations in the complaint must “state a claim to relief that is plausible on its face.” Bell Atl.

Corp. v. Twombly, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). That is, “[f]actual allegations must be enough to raise a right to relief above the speculative level.” Twombly, 550 U.S. at 555. While Rule 8(a) of the Federal Rules of Civil Procedure does not require detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” Iqbal, 556 U.S. at 678. A complaint is insufficient if it “offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action,’” or if it “tenders ‘naked assertions’ devoid of ‘further factual enhancement.’” Id. (quoting Twombly, 550 U.S. at 555, 557). In short, the complaint must provide a “‘plain statement’ possess[ing] enough heft to ‘sho[w] that the pleader is entitled to relief.’” Twombly, 550 U.S. at 557 (quoting Fed. R. Civ. P. 8(a)(2)).

Finally, the Court affords a liberal construction to a *pro se* litigant’s pleadings, holding them to a more lenient standard than those drafted by an attorney. Erickson v. Pardus, 551 U.S. 89, 94 (2007) (*per curiam*); Haines v. Kerner, 404 U.S. 519, 520 (1972) (*per curiam*). However, this liberal construction does not mean that the Court has a duty to re-write the complaint. Snow v. DirecTV, Inc., 450 F.3d 1314, 1320 (11th Cir. 2006).

2. Plaintiff Fails to State a Claim Against Defendant West

Plaintiff fails to state a claim for relief against Warden West based on his supervisory position. “Supervisory officials are not liable under § 1983 for the unconstitutional acts of their subordinates on the basis of *respondeat superior* or vicarious liability.” Hartley v. Parnell, 193 F.3d 1263, 1269 (11th Cir. 1999) (internal quotation marks and citation omitted); see also Rosa v. Fla. Dep’t of Corr., 522 F. App’x 710, 714 (11th Cir. 2013) (*per curiam*). Likewise, supervisors and employers cannot be sued under § 1983 simply on a theory of *respondeat superior*. See Kruger v. Jenne, 164 F. Supp.2d 1330, 1333-34 (S.D. Fla. 2000)

(citing Powell v. Shopco Laurel, Co., 678 F.2d 504 (4th Cir. 1982)) (explaining that employer which provided medical care for state inmates could not be sued under § 1983 on *respondeat superior* theory).

“Because vicarious liability is inapplicable to § 1983 actions, a plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” Rosa, 522 F. App’x at 714 (quoting Iqbal, 556 U.S. at 676) (internal quotations omitted). Therefore, to hold Warden West liable, Plaintiff must demonstrate that he (1) actually participated in the alleged constitutional violation, or (2) there is a causal connection between the individual’s actions and the alleged constitutional violation. See Hartley, 193 F.3d at 1269 (citing Brown v. Crawford, 906 F.2d 667, 671 (11th Cir. 1990)). Here, Plaintiff appears to name Warden West as a Defendant not because of his direct involvement in the events about which he complains, but by virtue of his supervisory position at ECJ. Plaintiff alleges Warden West failed to investigate Plaintiff’s grievance and “knowingly let correctional officer Brinden Murry continue to work at [ECJ] and assault humans” after “more than one complaint by scared inmates.” (Doc. no. 1, pp. 4-5, 8.)

Nowhere does Plaintiff allege Warden West was present for, or participated in, the actions attributed to Defendant Murry. Nor can Plaintiff establish liability by alleging Warden West ruled on a grievance. See Asad v. Crosby, 158 F. App’x 166, 170-72 (11th Cir. 2005) (*per curiam*) (affirming district court’s dismissal of supervisory liability claims against two defendants who failed, *inter alia*, “to afford [plaintiff] relief during the grievance process,” because the record failed to show that they “personally participated in the alleged constitutional violations, or that there was a causal connection between the supervisory defendants’ actions and an alleged constitutional violation”); see also Blackerby v. McNeil, No. CV 307-071, 2008 WL 2047814, at *1-2 (S.D. Ga. May 13, 2008) (dismissing claim against prison official who

allegedly failed to act in accordance with the plaintiff's wishes concerning information in a grievance and a letter); Shehee v. Luttrell, 199 F.3d 295, 300 (6th Cir. 1999) (refusing to impose liability under § 1983 on supervisory officials who denied administrative grievances and otherwise failed to act based on allegations contained in the grievances), *cert. denied*, 530 U.S. 1264 (2000); Crowder v. Lash, 687 F.2d 996, 1005-06 (7th Cir. 1982) (rejecting claim that Commissioner of Department of Corrections could be held liable for damages from any constitutional violation at a facility within his jurisdiction based on receipt of a letter describing allegedly improper prison conditions).

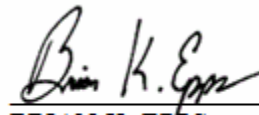
Nor has Plaintiff alleged the requisite causal connection between Warden West and the asserted constitutional violation. See Zatler v. Wainwright, 802 F.2d 397, 401 (11th Cir. 1986) (requiring an affirmative causal connection between a defendant and an alleged constitutional violation). The "causal connection" can be established "when a history of widespread abuse puts the responsible supervisor on notice of the need to correct the alleged deprivation, and he fails to do so," Brown, 906 F.2d at 671, or when "the supervisor's improper 'custom or policy . . . result[s] in deliberate indifference to constitutional rights.'" Hartley, 193 F.3d at 1269 (quoting Rivas v. Freeman, 940 F.2d 1491, 1495 (11th Cir. 1991)). The standard for demonstrating "widespread abuse" is high. In the Eleventh Circuit, "deprivations that constitute widespread abuse sufficient to notify the supervising official must be *obvious, flagrant, rampant and of continued duration*, rather than isolated occurrences." Brown, 906 F.2d at 671 (emphasis added). A causal connection may also be shown when the facts support "an inference that the supervisor [or employer] directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so." Cottone v. Jenne, 326 F.3d 1352, 1360 (11th Cir. 2003).

Plaintiff does not draw the necessary causal connection to any alleged constitutional violation. Plaintiff has not alleged (1) a history of widespread abuse regarding use of excessive force, (2) an improper custom or policy put in place by Warden West regarding excessive force, or (3) an inference Warden West directed prison employees to act, or knew they would act, unlawfully. At best, Plaintiff has alleged he used the grievance procedure, and the Warden denied the grievance. As a prison grievance procedure does not provide a constitutionally protected interest, Bingham v. Thomas, 654 F.3d 1171, 1177-78 (11th Cir. 2011) (*per curiam*), and as explained above, supervisory liability cannot be imposed based on ruling on a grievance, Warden West cannot be held liable based on the manner in which he addressed Plaintiff's grievance. In sum, Plaintiff has not shown Warden West actually participated in the alleged constitutional violation; nor has he drawn the necessary causal connection to any alleged constitutional violation. Therefore, Plaintiff fails to state a claim upon which relief can be granted against him, and Warden West should be dismissed from this case.

II. CONCLUSION

For the reasons set forth above, the Court **REPORTS** and **RECOMMENDS** Defendant West be **DISMISSED** from the case. By separate Order, the Court directs service of process on Defendant Murry based upon Plaintiff's allegations of excessive use of force.

SO REPORTED and RECOMMENDED this 9th day of July, 2024, at Augusta, Georgia.


BRIAN K. EPPS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA